

## **Chapter 12. Safe Drinking Water Project Funding**

### **Article 1. Definitions**

#### **63000.10. Applicant.**

“Applicant” means a public water system that is applying for funding from the State Revolving Fund.

#### **63000.13. CEQA.**

“CEQA” means the California Environmental Quality Act and the regulations and guidelines adopted by the California Resources Agency to implement that Act.

#### **63000.16. Completion of Project.**

“Completion of Project” means, in the case of construction, that the Department has conducted a final inspection of the project and has notified the Department of Water Resources that project construction has been completed. In the case of planning loans, completion of project means that the Department has received and approved the planning report and has notified the Department of Water Resources of the approval.

#### **63000.19. Construction Funding.**

“Construction Funding” means a loan or grant to cover the cost of planning, preliminary engineering, design, acquisition of water systems, purchase of land or equipment, and construction or consolidation of a water system project.

#### **63000.25. Disadvantaged Community.**

“Disadvantaged Community” means a community whose median household income is 65 percent or less of the statewide median household income.

#### **63000.28. Drinking Water Standards.**

“Drinking Water Standards” means all drinking water requirements set forth in the California Safe Drinking Water Act (section 116275 et. seq. Health and Safety Code) and the regulations adopted by the Department pursuant thereto.

#### **63000.31. Eligible Project Cost.**

“Eligible Project Cost” means those costs of a proposed project that are deemed by the Department to comply with the eligibility criteria set forth in section 63010.

**63000.34. Federal Cross-Cutters.**

“Federal Cross-cutters” means those federal laws, regulations, policies and executive orders listed in Appendix VII of the USEPA program guidelines.

**63000.35. Federal Funding Allocation.**

“Federal Funding Allocation” means the capitalization grant awarded by the USEPA to the Department from a specific federal fiscal year allocation.

**63000.37. Notice of Acceptance of Application.**

"Notice of Acceptance of Application" means a notice sent to the applicant that: (1) identifies the portions and costs of the project that have been determined to be eligible for State Revolving Fund funding; (2) explains the terms and conditions that will govern the loan or grant for the project; and (3) sets forth the conditions and schedules that must be met by the applicant before a funding agreement will be executed.

**63000.40 Funding Application.**

“Funding Application” means the appropriate application form to be submitted by an applicant for State Revolving Fund funding. The application forms are: Application for Construction Funds [DHS 8585 (1/99)]; Application for Short Term Planning Loans [DHS 8586 (1/99)]; and Application for Refinancing [DHS 8587 (1/99)], which are all incorporated by reference.

**63000.43. Funding Agreement.**

“Funding Agreement” means the loan or grant document that is signed by the funding recipient and the Department of Water Resources, acting as the agent for the Department, that consummates the funding agreement.

**63000.46. Funding Agreement Execution.**

“Funding Agreement Execution” means that the funding agreement has been signed by both the funding recipient and the Department of Water Resources acting as the agent for the Department.

**63000.49. Local Match Project.**

“Local Match Project” means a project whereby the local public agency provides 20 percent of the total eligible cost of the project to the Department to cover the State’s matching share of the federal dollars.

**63000.62. Median Household Income.**

“Median Household Income” means the household income that represents the median value for a service area of a public water system.

**63000.65. NEPA.**

“NEPA” means the National Environmental Policy Act (42 U.S.C. 4331 et seq.) or a NEPA equivalent or NEPA-Like process approved by the USEPA for the drinking water revolving fund loan program.

**63000.68. Planning Loan.**

“Planning Loan” means a loan to cover the cost of studies, planning, and preliminary engineering for a project.

**63000.71. Project.**

“Project” means all planning, engineering, construction, and construction related activities undertaken to solve the specific water system problem for which the project was ranked on the project priority list.

**63000.74 Project Priority List.**

“Project Priority List” means the list of projects for which public water systems have requested funding and that have been ranked in priority order in accordance with section 116760.70 of the Health and Safety Code.

**63000.77. Project Primarily to Serve Future Growth.**

“Project Primarily to Serve Future Growth” means a project, or project component, that has a design capacity that is more than double the design capacity needed to serve the existing water demand at peak daily flow.

**63000.80. Refinancing Loan.**

“Refinancing Loan” means a loan to refinance the remaining balance of an existing indebtedness incurred for construction of an otherwise eligible project where the construction of such project commenced after July 1, 1993.

**63000.83. Service Area.**

“Service Area” means all of the geographical area that is currently served drinking water by a public water system.

**63000.86. State Revolving Fund.**

“State Revolving Fund” means the Safe Drinking Water State Revolving Fund created pursuant to section 116760.30 of the Health and Safety Code.

**63000.89. Target Consumer Rate.**

“Target Consumer Rate” means an amount equal to 1 ½ percent of the median household income for water systems where the median household income is equal to or less than the statewide median household income or 2 percent of the median household income for water systems where the median household income is greater than the statewide median household income.

**63000.92. USEPA.**

“USEPA” means the United States Environmental Protection Agency.

**63000.95. USEPA Program Guidelines.**

“USEPA Program Guidelines” means the Drinking Water State Revolving Fund Program Guidelines (EPA 816-R-97-005, February 28, 1997) adopted by the USEPA.

## **Article 2. Financing Criteria**

**63010. Project Eligibility.**

- (a) In order to be eligible for funding, an applicant shall be either a community water system or a non-profit non-community water system, and have the authority to enter into a debt contract with the State.
- (b) Only those project costs that are directly associated with the planning, design, and construction of a project shall be eligible for funding.
- (c) The following project costs, that would otherwise be eligible pursuant to subsection (b), shall be ineligible for funding:
  - (1) Land acquisition except for land or land access that is integral to the construction of source, treatment or distribution facilities.
  - (2) Ongoing operation and maintenance costs.

- (3) Any project facilities that are primarily to serve future growth.
- (4) Dams or rehabilitation of dams and any raw water storage facilities.
- (5) Water rights except water rights acquired through consolidation with another water system.
- (6) Laboratories except those necessary for operation of a treatment facility.
- (7) Costs arising from construction change orders that occur after funding agreement execution except for the following:
  - (A) A change in the executed funding agreement amount based on the final accepted construction bid as provided in section 63051 (b).
  - (B) Change orders that are a result of changes in drinking water standards.
  - (C) Change orders requested by the Department.

**63011. Planning Loans.**

- (a) Planning funds shall be used only for loans to finance planning, studies, and preliminary engineering costs for an eligible project. Planning funds shall not be used for detailed design, equipment purchase, or construction.
- (b) Planning loans shall be limited to a maximum amount of \$100,000 per project.
- (c) Projects funded by planning loans shall be completed and a planning report submitted to the Department within 18 months from funding agreement execution.

**63012. Construction Funding.**

- (a) Construction funding shall be limited to a maximum amount of \$20,000,000 per project.
- (b) A public water system shall not be awarded more than an aggregate amount of \$30,000,000 in construction funding and refinancing loans from a federal funding allocation.

- (c) The funding limitations established by this section shall not apply during the month preceding the federal deadline for obligation of funds to applicants from a federal funding allocation.

**63013. Refinancing Loans.**

- (a) Refinancing loan funds shall only be used to refinance the remaining balance of an existing indebtedness incurred by the construction of an eligible project.
- (b) An applicant for a refinancing loan shall be a public agency.
- (c) Refinancing loans shall be limited to a maximum amount of \$20,000,000 per project and an aggregate total of \$30,000,000 per water system from a federal funding allocation.

**63014. Local Match Projects.**

- (a) Local match projects shall be considered to be the same as construction projects and shall be subject to the same conditions and limitations.
- (b) An applicant for a local match project shall be a community water system owned by a public agency.
- (c) Only projects that exceed \$5,000,000 in eligible project costs shall be eligible for local matching.

**Article 3. Disadvantaged Communities**

**63020. Grant Eligibility.**

Funding in the form of a grant shall be made only to a public water system owned by a public agency that is serving a disadvantaged community.

**63021. Grant Limitations.**

- (a) The maximum amount of grant funding to be awarded to a project shall be limited to the following percentages according to the classification of the project using the Project Priority List adopted September 15, 1998, pursuant to Health and Safety Code section 116760.70:

- (1) 80% of the eligible project cost if the project is in Project Priority List categories A through G;
  - (2) 65% of the eligible project cost if the project is in Project Priority List categories H through L; or
  - (3) 50% of the eligible project cost if the project is in Project Priority List categories M through O.
- (b) Grant funds awarded to a disadvantaged community project shall not exceed \$10,000 per service connection.
  - (c) The maximum amount of grant funding that one water system may receive from a federal funding allocation shall not exceed \$1,000,000.
  - (d) The total amount of grant funding awarded to a disadvantaged community for a project shall be limited to the amount of funding needed so that the projected average residential water rate, which would result from a loan from the State Revolving Fund, will not exceed the target consumer rate.

#### **Article 4. Application Process**

##### **63025. Funding Application.**

- (a) All funding applications shall be submitted by public water systems only after a water system has received a written invitation from the Department to do so.
- (b) Upon receipt of a written invitation from the Department to submit a funding application, an applicant shall indicate their intention to submit the application within the deadline set forth in the letter by signing a statement of intent. The statement of intent shall be received by the Department prior to close of business on the day indicated in the invitation.
- (c) In order to be assured of receiving funding consideration from a specific federal funding allocation, a completed funding application shall be submitted to the Department by close of business on the date set forth in the letter of invitation.
- (d) A funding application shall not be accepted for processing unless the funding application form is completed and the additional information specified in sections 63026, 63027, and 63028 is submitted.

**63026. Technical Information.**

- (a) Each funding application for construction funding or a refinancing loan shall contain the following information:
  - (1) A map showing the current service area of the water system.
  - (2) A map or drawing showing the location of all existing water sources, pumping facilities, treatment facilities, storage tanks or reservoirs, water transmission mains, and water main pressure zones.
  - (3) A schedule for full compliance with CEQA and NEPA.
- (b) Each applicant for construction funding shall prepare and submit with the funding application, an engineering report addressing all of the following elements:
  - (1) An identification and evaluation of alternative solutions to the problem. The evaluation shall compare estimated project costs, relative effectiveness in solving the problem, and environmental impacts of each alternative.
  - (2) An evaluation, including costs and feasibility, of possible physical consolidation with other water systems.
  - (3) A description of the selected or proposed alternative.
  - (4) A conceptual or preliminary engineering design, including the design capacity of project components, and a schematic layout of the proposed project. All assumptions, criteria, and calculations used for the preliminary design shall be shown.
  - (5) An analysis and estimation of the anticipated useful life of components of the proposed project.
  - (6) A preliminary analysis of projected growth anticipated to occur within the service area within the next ten years, the resultant projected water demand, and the amount of growth or water demand to be included in the project.
  - (7) A proposed design and construction schedule.
  - (8) A cost estimate breakdown of the proposed project.
- (c) Each funding application for a refinancing loan shall include all of the following:



- (1) A description and estimated costs of all alternative solutions to the problem that were considered prior to construction of the selected project.
- (2) A layout or schematic drawing showing the location and relationship of all project facilities including the newly constructed portions.
- (3) A description of the facilities that were constructed and for which refinancing is being requested including an estimate of their useful life.
- (4) The design capacities of project components and the design parameters and engineering calculations used in the sizing and design of the project components.
- (5) An analysis and estimation of the water demand within the service area at the time of start of construction of the project and a projection of anticipated growth and water demand for a ten-year period commencing from the time of start of construction.
- (6) A cost breakdown of the constructed project.
- (7) As-built plans for all of the construction facilities that are to be covered by the refinancing loan.
- (8) The final plans and specifications used to solicit and select the construction bid.
- (9) Information that demonstrates that all applicable federal cross-cutters have been complied with.

**63027. Managerial Information.**

Each funding application shall contain the following:

- (a) Copies of any leases, easements, or other documentation for land, water sources, treatment, pumping, storage, or distribution facilities used in the operation of the water system that are not owned by the water system.
- (b) A written statement by an attorney certifying that the water system is a legal entity authorized to operate a public water system and has the authority to enter into a long-term indebtedness with the State of California.
- (c) A description of the water rights held by the water system and any available documentation to substantiate those rights.

**63028. Financial Information.**

- (a) Each funding application shall contain the following:
  - (1) A projected revenue/expenditure analysis that compares all anticipated water system revenues and planned expenditures for the next five years.
  - (2) An analysis and calculation of the average current water rate charged to residential users and the projected average water rate that will be charged to residential users following completion of the eligible project. This analysis is not required for non-community water systems.
  - (3) Financial statements (balance and income) of the water system covering the past three years.
  - (4) A description of the accounting and budget control procedures used and any proposed changes to the procedures.
- (b) In addition to the requirements of subsection (a), applicants for a refinancing loan shall also include a certification that proceeds of the previous debt were used to pay for eligible project costs. If ineligible items were funded, a list of those items and their costs shall be included.
- (c) In addition to the requirements of subsection (a), applicants that propose to use local matching funds pursuant to section 63014 shall include a resolution adopted by the governing body. The resolution shall identify the source of the local matching funds and pledge those funds for deposit into the State Revolving Fund.

**63029. Notice of Acceptance of Application.**

Within 30 days of receipt of a Notice of Acceptance of Application from the Department of Water Resources, the applicant shall indicate their acceptance of the terms and conditions of the funding offer by countersigning the letter and returning it to the Department of Water Resources.

**63030. Project By-passing.**

- (a) A project on the Project Priority List shall be by-passed for funding consideration for the current fiscal year if any of the following apply:
  - (1) The water system indicated that it did not desire to receive funding for a particular project in the current fiscal year.

- (2) A water system fails to sign a statement of intent to submit an application and return it to the Department by the date identified in the letter as specified in section 63025(b).
  - (3) A water system, receiving an invitation from the Department to submit a funding application, informs the Department that it does not wish to submit an application at this time.
  - (4) A funding application is rejected by the Department for failure on the part of the applicant to comply with the requirements of this chapter.
  - (5) An applicant fails to sign and return the Notice of Acceptance of Application within 30 days of receipt of the Notice of Acceptance of Application.
  - (6) The Department of Water Resources or the Department of Health Services withdraws a previously issued Notice of Acceptance of Application for failure on the part of the applicant to comply with the terms and conditions as stated in the Notice of Acceptance of Application.
  - (7) The applicant has reached the \$30,000,000 funding maximum set forth in section 63012 (b).
- (b) Any project that is by-passed for any reason shall remain on the Project Priority List and be eligible for future funding consideration.

### **Article 5. Information to be Submitted Prior to Execution of the Funding Agreement**

#### **63040. Technical and Financial Information.**

- (a) All applicants for construction funding or refinancing loans shall comply with all environmental review and procedural requirements of CEQA and NEPA prior to execution of the funding agreement.
- (b) Prior to execution of a funding agreement that includes a loan, each applicant for funding shall submit the following:
  - (1) A resolution or ordinance adopted by the governing body dedicating the source of repayment of the loan.
  - (2) A completed and signed Fiscal Services Agreement [DWR-4280 (New 2/99) which is incorporated by reference].

## **Article 6. Design and Construction**

### **63050. Plans and Specifications.**

- (a) Applicants for construction funding shall submit final design plans and project specifications to the Department in accordance with the schedule set forth in the Notice of Acceptance of Application.
- (b) Project specifications for projects proposed by water systems that serve more than 1,000 service connections shall comply with federal cross-cutters.

### **63051. Construction.**

- (a) Construction contracts awarded by the applicant for any project involving the use of grant funds from the State Revolving Fund shall be based on competitive construction bids.
- (b) An applicant's request for a change in the amount of funding specified in the funding agreement shall be limited to one occasion and shall be based solely on the final accepted construction bid(s).

## **Article 7. Claims and Loan Repayments**

### **63055. Submission of Claims for Reimbursement.**

- (a) No claims for reimbursement shall be submitted prior to execution of the funding agreement. Claims shall be submitted only for reimbursement of costs already incurred.
- (b) Claims submitted by loan recipients shall be made using a claim form [DWR – 4277 (New 2/99) which is incorporated by reference] provided by the Department of Water Resources and shall be submitted no more frequently than monthly.
- (c) No claims shall be submitted for costs incurred after completion of the project.
- (d) No claims for local match projects shall be reimbursed until the applicant's local share has been received and deposited into the State Revolving Fund account.

**63056. Loan Repayments**

- (a) Loan repayments shall be made in accordance with the schedule set forth in the funding agreement.
- (b) A penalty of one-tenth of one percent per day (not compounded) on the payment amount due shall be assessed for late payments.

**63057. Records.**

- (a) All applicant records and documents relating to the loan shall be maintained by the loan recipient until such time that the loan has been fully repaid.
- (b) All applicant records and documents pertaining to the loan shall be available for inspection and audit by the Department or the USEPA during normal business hours.